

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 08 May 2017

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: NAO, TWE Chesapeake Solar Project, NAO-2016-01898

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Virginia County/parish/borough: N/A City: Chesapeake
Center coordinates of site (lat/long in degree decimal format): Lat. 36.638000° North, Long. -76.179900° West
Universal Transverse Mercator: N/A
Name of nearest waterbody: Pocaty River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Pocaty River

Name of watershed or Hydrologic Unit Code (HUC): 03010205

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc....) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: 08 May 2017

☒ Field Determination. Date(s): 13 Dec 2016

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: There are no Section 10 waters within the immediate project boundaries.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

☐ TNWs, including territorial seas

☐ Wetlands adjacent to TNWs

☒ Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs

☐ Non-RPWs that flow directly or indirectly into TNWs

☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs

☐ Impoundments of jurisdictional waters

☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: linear feet: N/A width (ft) variable

Wetlands: N/A although some are likely seasonally present along the margins of the channelized streams.

c. Limits (boundaries) of jurisdiction based on: **Established by OHWM**

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

Elevation of established OHWM (if known): Not known.

SECTION III: CWA ANALYSIS

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

2. RPWs that flow directly or indirectly into TNWs.

- ☒ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: The applicant identified the onsite waters are being perennial, they are mapped by the USGS as solid blue-line streams, they have had water in them every time the site has been visited by the agent & Corps, and they appear to have water in them in all available aerial photography (taken at different times of year and different years).


SECTION IV: DATA SOURCES.


A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

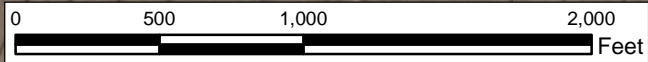
- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 ☒ Office concurs with data sheets/delineation report.
 ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
☐ Corps navigable waters' study:
☒ U.S. Geological Survey Hydrologic Atlas:
 ☒ USGS NHD data – accessed via EPA's MyWaters database and mapping.
 ☒ USGS 8 digit HUC maps – 03010205 accessed via Google Earth
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: Fentress USGS quad via Google Earth
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: SSURGO data
☒ National wetlands inventory map(s). Cite name: Fentress USGS quad – no wetlands mapped within project area
☐ State/Local wetland inventory map(s):
☐ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: Aerial (Name & Date): various Google Earth, GIS, Bing, Digital Globe aeriels
☒ or Other (Name & Date): various dates
☐ Previous determination(s). File no. and date of response letter:
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☒ Other information (please specify): 2013 Chesapeake LiDAR data, The Corps of Engineers Wetlands Delineation Manual (1987), the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, Version 2.0 (2010), RGL 05-05 on OHWM Identification, Epi-Collect app data collection of OHWM field indicators for representative ditch sections. Google Earth compilation of background information done by David Knepper.

B. ADDITIONAL COMMENTS TO SUPPORT JD: Very straight-forward field conditions. In general the farm fields were clearly crowned and there were no consistent, questionable aerial photo signatures that needed field investigation. The consultant identified all the larger onsite "collector" ditches as waters of the U.S. (unnamed tribs to Pocaty River) and said that where not mapped the ditch was off the property (i.e., southeastern boundary near Head of River Road). Ditches not considered waters of the U.S. were much smaller, interior field ditches that lacked OHWM field indicators, and were much different in character.

Legend

 Approximate Site Boundary

 Streams



US Army Corps of Engineers
Norfolk District Regulatory Branch
Received by DAK
Date: 06 March 2017

Notes

Data Source:
 Virginia Department of Game and Inland Fisheries -
 Wildlife Environmental Review Map Service (WERMS),
 updated 7/20/2016; Virginia Department of Conservation
 and Recreation
 Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics,
 CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the
 GIS User Community



Project No.49157748B
Drawn By: MDP
Approved By: JWB
Date: 8/28/2016

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Stream Delineation Map
 TWE Chesapeake Solar Project, LLC
 Head of River Road
 Chesapeake, Virginia

Exhibit

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